

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3926 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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RATANBEN N VAGHELA

Versus

STATE OF GUJARAT

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Appearance:

Mr. H.R.Prajapati, for M/S THAKKAR ASSOC. for Petitioner

Mr. Nigam ShuklaS for Respondent No. 1, 2, 3

CORAM : MR.JUSTICE M.R.CALLA

Date of decision: 22/10/96

ORAL JUDGEMENT

This Special Civil Application is directed against detention order dated 24th April, 1996 passed by the Police Commissioner, Vadodarara city detaining the petitioner under the provisions of Gujarat Prevention of Anti-social Activities Act, 1985. The detention order was executed on the same day i.e.24th April, 1996 itself and since then the petitioner is under

detention lodged in Sabarmati Central Jail, Ahmedabad.

2. The Special Civil Application was filed on 4th July, 1996 and on 6th June, 1996 Rule returnable for 26th June, 1996 was issued on 7th June, 1996. So far no reply has been filed on behalf of the respondents nor any affidavit in reply has been filed by the detaining authority.

3. The grounds of detention enclosed with the detention order show that six criminal cases were registered against the petitioner under Prohibition Act out of which four were pending trial and in two matters police investigation was going on. The detaining authority has referred to bootlegging activities of the petitioner alongwith her associates in several areas and villages and has also placed reliance on the statements of certain witnesses against petitioner's anti-social activities who have deposed against her anti-social and other activities showing that she had become a problem for public order, she was forcing witnesses to store liquor stock in their houses and if they did not agree, she alongwith her associates gave them public beating threatening them, has been using Rampuri knife, has been beating the witnesses taking them to be police informers. Reference has also been made to the chapter case no. 5 of 1996 at Makarpura police station dated 12th January, 1996 and further reference has been made to the proceedings under sections 107, 109 and 110 of Criminal Procedure Code and the provisions of the Bombay Police Act and that has been threatening innocent persons who did not co-operate in the activities of her liquor business. Reference has also been made to Latthakand which had happened in the past with which she has no concern. The detaining authority has found that the petitioner was a bootlegger and it was necessary to detain her in order to prevent her from continuing anti-social activities and accordingly, the detention order was passed.

4. Although the detention order has been challenged on several grounds, at the time of arguments, learned counsel for the petitioner kept his arguments confined to the question that it was not a case of breach of public order and even if the allegations and the material as has been used against the petitioner by the detaining authority is taken into consideration, it may amount to a case of breach of law and order and therefore, the detention order cannot be sustained.

4. For the detailed reasons stated in the decision dated 4th October, 1996 rendered by this Court, in Special Civil Application No. 3879 of 1996, it is clear that the material as has been used in the present case even if taken to be true, may at the most make out a case of breach of law and order and there is no question of breach of public order. In view of the reasons contained in the aforesaid decision, the present impugned detention order cannot be sustained in the eye of law.

5. Accordingly, the Special Civil Application is allowed. The impugned order dated 24th April, 1996 passed by the Commissioner of Police, Baroda city is quashed and set aside. The petitioner's detention is declared to be illegal. The respondents are directed to release the petitioner and set her at liberty forthwith if not required in any other case. Rule is accordingly made absolute.